



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

Issued by the Department of Transportation on June 29, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-2004-18184

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Application of **Delta Air Lines, Inc. (Delta) and Aerovias de Mexico, S.A. de C.V. (Aeromexico)** filed **6/14/04** for:

XX Exemption for Delta for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between Salt Lake City, Utah, and Cancun, Mexico, and to combine this authority with all of Delta's existing certificate and exemption authority, consistent with applicable international agreements. Delta will operate this service pursuant to a code-share arrangement with Aeromexico.

XX Statement of authorization for Delta under CFR Part 212 to:

Permit Delta to display the "AM" code of Aeromexico on flights operated by Delta between Salt Lake City, Utah, and Cancun, Mexico.

XX Exemption for Aeromexico for one year under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between Salt Lake City, Utah, and Cancun, Mexico.

Applicant reps: **Alexander Van der Bellen, (202) 663-8060 (Delta)** DOT Analyst: **Sylvia Moore, 202-366-6519**
William C. Evans (202) 861-6459 (Aeromexico)

DISPOSITION

XX **Granted Delta's request for exemption authority** (subject to conditions, see below)

XX **Deferred on Delta's request for a statement of authorization** (see remarks below)

XX **Deferred on Aeromexico's request for exemption authority and a statement of authorization** (see remarks below)

The above action granting Delta's exemption authority was effective when taken: **June 29, 2004**, through **June 29, 2006**

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX **The authority granted is consistent with the aviation agreement between the United States and Mexico.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX **Delta's certificates of public convenience and necessity**

XX **Standard exemption conditions (attached)**

Conditions: The U.S.-Mexico exemption authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. Consistent with our policy, the dormancy notice period will begin on August 7, 2004, Delta's proposed start-up date for the Salt Lake City-Cancun service.

The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority granted should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the route integration exemption granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: We are deferring action on the joint applicants' request for (1) statement of authorization for Delta to place the "AM" code on Delta's flights in the Salt Lake City-Cancun market; and (2) exemption authority for Aeromexico to conduct the proposed code-share services, pending receipt of Aeromexico's designation for the Salt Lake City-Cancun services from the government of Mexico.

We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found Delta qualified to provide the exemption services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or deferred, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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http://dms.dot.gov/reports/reports_aviation.asp

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

05/2004